



# Controlling Persons

## Foreign Account Tax Compliance Act ('FATCA') and Common Reporting Standard ('CRS') - Reasonable Explanation Form

**Note:** Please review the Controlling Persons Frequently Asked Questions (FAQ's) before completing this form.

**To:** AIB (NI)

I understand that AIB (NI), in accordance with the Foreign Account Tax Compliance Act ('FATCA') and Common Reporting Standard ('CRS'), is required to obtain a reasonable explanation and supporting documentation to support the validity of the tax certification provided in respect of the account holder and its controlling persons.

I confirm that \_\_\_\_\_ is a Controlling Person of \_\_\_\_\_ and is tax resident in the following country(ies) \_\_\_\_\_. I provide the following explanation as to why there is a difference between the country(ies) of tax residence stated on the tax certification form completed and other information held by the bank.

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Please list the documentation provided to support the above explanation (Refer to Q6 for the list of acceptable documents):

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Please note that a separate Reasonable Explanation form must be provided in respect of each Controlling Person.

Sort code \_\_\_\_\_ Bank Account Number \_\_\_\_\_

Name of Controlling Person \_\_\_\_\_

I declare that, to the best of my knowledge and belief, the information I have provided is accurate and complete. I declare that I am authorised to provide this information.

Authorised Signatory \_\_\_\_\_

Position \_\_\_\_\_

Entity Name \_\_\_\_\_

Date \_\_\_\_/\_\_\_\_/\_\_\_\_\_

**Note:** We will review your explanation and will advise you if any additional information is required.

Once completed, please return this form and supporting documentation to the following address:

**Tax Operations, 3rd Floor, Blackthorn Road, Sandyford, Dublin 18**

# Frequently Asked Questions

## Controlling Persons - Foreign Account Tax Compliance Act ('FATCA') and Common Reporting Standard ('CRS')

### 1. What is FATCA?

FATCA is a legal framework which requires the Bank to report details of financial accounts held by US Persons to HMRC on an annual basis who will then exchange this information with the US tax authorities.

### 2. What is CRS?

CRS is a legal framework which requires the Bank to report details of financial accounts held by persons tax resident in a CRS participating jurisdiction to HMRC on an annual basis who may then exchange this information with tax authorities in relevant jurisdictions.

### 3. What is the impact of FATCA and CRS for you?

We are required to undertake the following additional steps in relation to customers opening a new account:

- obtain a tax certification from the entity which enables the bank to determine (a) the entities residence for tax purposes, (b) the entities classification for FATCA and CRS and (c) in certain cases whether the **controlling persons** of the entity are US citizens and/or tax resident in a reportable jurisdiction;
- confirm the reasonableness of the tax certification based on other information that we hold in relation to the entity (including its controlling persons);
- where there is a conflict between the tax certification and other customer information that we have on file, we will require a reasonable explanation and documentation supporting the reasonableness of the tax certification provided at account opening (refer to Q5/6) or alternatively a revised tax certification. An example of such a conflict would be if the controlling person is certified as UK tax resident but they have an Irish mailing address.;
- Further information is available on the HMRC website at:  
<https://www.gov.uk/guidance/automatic-exchange-of-information-account-holders>

### 4. How should you determine the controlling persons of the entity?

A controlling person is defined as a natural person who exercises control over an entity. Further detail is set out below for each entity type:

#### → Company

Any individuals who ultimately own or control 25% or more of the shares or voting rights in the company or otherwise exercise control over the management of the company.

In circumstances where no individual owns or controls 25% or more of the shares or voting rights in the Company or otherwise exercises control over the management of the Company, then details of the two individuals who hold the greatest percentage of shares or voting rights in the Company or otherwise exercise control must be provided. For example, if 5 shareholders own or control equal shares (20%) of a Company then the details for any 2 individuals must be provided to the Bank.

## → **Incorporated Society**

Any individual who ultimately own or control 25% or more of the shares or voting rights in the incorporated society or otherwise exercise control over the management of the incorporated society.

In circumstances where no individual(s) ultimately own or control 25% or more of the shares or voting rights in the incorporated society or otherwise exercises control over the management of the incorporated society, details for the 2 individuals who hold the greatest percentage of shares or voting rights in the incorporated society or otherwise exercise control must be provided. For example, if 5 shareholders own or control equal shares (20%) of an Incorporated Society then the details for any 2 individuals must be provided to the Bank.

## → **Partnership / Limited Partnership**

Any individuals who ultimately own or control a 25% or more share of the capital, or profits or voting rights in the partnership, or who otherwise exercise control over the management of the partnership.

## → **Trust**

In relation to a trust, means each of the following:

- the settlor(s);
- the trustee(s);
- the beneficiary(ies)
- the protector(s);
- any individual who has control over the trust.

## → **Unincorporated Entity (e.g. Association, Society, Club/Charity)**

Any individual who benefits from or who exercises control over at least 25% or more of the property of the Unincorporated Entity.

## → **Other Legal Entities within the Ownership Structure of your Business**

Where there are other legal entities within the ownership structure of your Business, and they own or control 25% or more of the shares or voting rights, capital or profit, (as applicable), or otherwise exercises control in your Business, the details for the Controlling Persons (Beneficial Owners) of that legal entity must be provided to the Bank, and so on until the details of all Controlling Persons (Beneficial Owners) within the ownership structure of your Business are established.

## **5. What is a reasonable explanation?**

In certain cases where there is a conflict between the tax certification provided by a customer in relation to the controlling persons of the entity and other information that we have on file, we are obliged to request a reasonable explanation and documentation supporting the reasonableness of the tax certification provided .

The explanation required will depend on the specific circumstances of each controlling person. It should explain why the authorised signatory is satisfied that the controlling person is tax resident in the country(ies) provided in the tax certification completed at account opening. It should also include a detailed explanation as to why there is a difference between the country(ies) of tax residence included on the tax certification and other information held by the bank.

If we take an example of a controlling person who is certified as UK tax resident but who has a French mailing address, a reasonable explanation might be that they are living and working in the UK but continue to have their post sent to their parents address in France.

If the conflict relates to the tax residence or classification of the entity please refer to the entity Frequently Asked Questions.

## **6. What documentation should be provided to support the reasonable explanation?**

Customers will be required to submit documentation to support the reasonable explanation provided with regards to the tax residency status of controlling persons (refer to Q5). The following are examples of the types of documentation that will be accepted:

**A.** a copy of a utility bill (electricity, gas or landline) or home insurance policy, issued in the past 6 months, which includes the controlling persons address in their country(ies) of tax residence

and

**B.** a copy of one of the following documents which includes the controlling persons address in their country(ies) of tax residence

- Confirmation of tax residence from the appropriate Revenue authority
- A document issued by a government department
- A copy of their Tax Credit Certificate (TCC)
- A Statement of Liability from a Tax Authority
- A social insurance document
- Employment contract
- Payslip
- Lease Agreement

## **7. How should the tax residence of controlling persons be determined?**

In general, tax residence is the place where an individual lives. However, in certain circumstances, such as where an individual lives and works in different countries or lives part of the year in a different jurisdiction, the determination of tax residency may be more complicated. Each country has its own rules on tax residency.

For example, Lucy has her permanent home in Derry. However she travels each day to Donegal for work, returning in the evening. She does not have a permanent home available to her outside of Derry.

Lucy is tax resident in the UK under UK tax residency rules and is also tax resident in Ireland for the same year as she is present in Ireland for more than 183 days in the tax year. Lucy should include both Ireland and the UK as countries of tax residence on the tax certification.

A person coming to live in the UK or returning to the UK after living abroad for a number of years may not be tax resident in the UK from the date of arrival and may continue to be tax resident in the country in which they previously resided. Further information on tax residency and the implications for people coming or returning to live in the UK is available at [http://www.gov.uk/tax-foreign\[1\]income/](http://www.gov.uk/tax-foreign[1]income/). Similarly a person leaving the UK to live abroad may not cease to be UK tax resident from the date of departure.

An overview of the tax residency rules of countries participating in CRS can be found at <http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-residency>.

If you move to a new country (on a full time or part time basis) your tax residence may change. Please notify us if your country of tax residence changes so that we can update the tax information we hold for you.

## **8. Do you need to provide a Tax Identification Number ('TIN') for controlling persons?**

We are required to collect a TIN for any controlling person that is a US Citizen or tax resident in certain CRS participating jurisdictions outside the UK. Except in the limited circumstances where a controlling person is tax resident in a jurisdiction that does not issue TIN's, we may not be able to proceed with opening a new business account until a TIN has been provided. Further information on TIN's is available at: <http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/taxidentification-numbers/>

## **9. Do you need to provide a TIN if the controlling person is a US Citizen?**

A person born in the US is regarded as a US Citizen unless born to a foreign diplomat. Where a controlling person of an entity is a US Citizen, we cannot proceed to open a business bank account until we receive their US TIN which is typically their social security number. The only exception to this would be if the controlling person can verify that their parents were foreign diplomats or that they have renounced their US citizenship.

Controlling persons can apply to the IRS to obtain a US TIN. Further information on how to apply for a US TIN can be found at: <https://www.irs.gov/individuals/international-taxpayers/taxpayeridentification-numbers-tin>

## **10. How frequently will your business have to provide information to AIB for FATCA / CRS purposes?**

Customers should promptly advise us of any change in the tax status of the entity or the identity / tax residence of the controlling persons. To the extent that there is a change in the details of the controlling person, we may be required to contact the authorised signatory to provide a new tax certification and/ or reasonable explanation form (refer to Q5) in respect of the controlling person so that we can update the tax information we hold.

## **11. What information is reported to Revenue under FATCA / CRS?**

In general, financial institutions must report the following information to HMRC

- the account holder's name, address, tax classification, country of tax residence and TIN
- the account number
- the account balance or value at year end
- interest paid or credited to the account during the calendar year and
- the name, address, country of tax residence, US citizenship, date and place of birth (where available), TIN of controlling persons (where applicable) and role of the controlling persons

## **Tax Advice and Disclaimer**

Please note that the information contained in this document is for information purposes only. AIB (NI) does not offer tax advice. If you have any questions in relation to FATCA / CRS you should contact your tax advisor or HMRC at:

<https://www.gov.uk/guidance/automatic-exchange-of-information-account-holders>

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